

Calendar No. 665

82D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 711 }

JOSEPH A. FERRARI

AUGUST 27 (legislative day, AUGUST 1), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 3026]

The Committee on the Judiciary, to which was referred the bill (H. R. 3026) for the relief of Joseph A. Ferrari, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$333.75 to Joseph A. Ferrari, Dorchester, Mass., in full settlement of all claims for reimbursement for personal property which he lost when the ship upon which he and other members of the Armed Forces were being transported during World War II was sunk, on December 5, 1944, as the result of enemy action.

STATEMENT

Details regarding this claim appear more fully in House Report No. 653 (82d Cong.) which need not be reprinted here but is incorporated herein by reference.

Claimant, while an enlisted man in the United States Army, was aboard a ship when it was sunk by enemy action in the Southwest Pacific on December 5, 1944. He was rescued and taken to Leyte, P. I., where he was told that he could make claim for personal property lost as a result of his abandonment of the ship which was sunk. However, claimant was told that such claim could be made only on a certain form which was not then available for the purpose. Thereafter, claimant forgot about the matter, possibly as a result of his duties as a soldier actively engaged in the liberation of the Philippines.

In March 1950, several years after his discharge, claimant learned that such claims had been filed and conceived the idea that he may yet obtain relief for his loss. Thereupon, he was assisted by a claims officer in filing a claim on August 7, 1950, with the Department of the Army.

Sergeant Ferrari's claim was considered under the Military Personnel Claims Act of 1945 (59 Stat. 225; 31 U. S. C. 222c), the only statute under which a claim of this nature may be considered. That act provides, in part, as follows:

No claim shall be settled under this Act until presented in writing within one year after the accident or incident out of which such claim arises shall have occurred: *Provided*, That if such accident or incident occurs in time of war, or if war intervenes within two years after its occurrence, any claim may, on good cause shown, be presented within one year after peace is established.

The claim was denied because claimant failed, in the opinion of Army officials, to furnish any "good cause" for his delay in filing his claim.

The action of the Army officials seems to be arbitrary in their decision regarding what constitutes "good cause." There is no denial that claimant lost the property for which relief is claimed, and it is made apparent that the claim would have been paid if filed at the proper time or if sufficient cause for delay had been shown.

The committee observes that but for the failure of the Army to provide proper forms for filing this claim at the most advantageous time with respect to the interests of the claimant and the Government, this claim would have been filed.

It should be pointed out that the act under which the Department of the Army considered this claim did not come into existence until approximately 6 months after the incident upon which this claim was based.

This committee is in agreement with the report on this bill adopted by the House wherein it states that the Department of Defense is inconsistent in its stand against enactment of this bill in the absence of a general statute applicable to all persons, but also opposes enactment of such general legislation.

In view of the foregoing the committee recommends favorable consideration of this bill, H. R. 3026.

